



C.R.P.(MD)No.2129 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated: 12.12.2023

CORAM

THE HON'BLE MR. JUSTICE P.B.BALAJI

C.R.P.(MD)No.2129 of 2019

and

C.M.P.(MD)No.11177 of 2019

S.Sudha ... Petitioner / Respondent / Defendant

V.

S.Saroja ... Respondent / Petitioner/Plaintiff

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order and decretal order made in I.A.No.789 of 2018 in O.S.No.493 of 2018 on the file of II Additional Sub Judge, Nagercoil, dated 30.09.2019 and to allow the Civil Revision Petition.

For Petitioner : Mr.VR.Shanmuganathan

For Respondent : Mr.R.Sundar Srinivasan for R1

: No appearance for R3

ORDER

The Civil Revision Petition has been preferred against the fair and decretal order in I.A.No.789 of 2018 in O.S.No.493 of 2018, on the file of II Additional Sub Judge, Nagercoil.



C.R.P.(MD)No.2129 of 2019

WEB COPY

2. The said application was filed under Order 38 Rule 5 of the Code of Civil Procedure and after calling upon the revision petitioner to furnish security for the suit claim, an order came to be passed attaching the belongings of the revision Petition. Though the said order is appealable, the revision petitioner has chosen to prefer the present Civil Revision Petition under Article 227 of the Constitution of India.

3. The learned counsel for the respondent / plaintiff takes up a preliminary objection with regard to the maintainability of the revision itself. Since the Civil Revision Petition has not yet been admitted, I deem it fit to hold that the revision fails as not maintainable and a regular appeal is provided as against the order. The time spent in pursuing the present Revision shall be excluded, while calculating the time for filing appeal and in the event of appeal preferring within a period of 30 days from the date of receipt of a copy of this order, the appeal shall be numbered, without insisting on a formal condone delay application and without being influenced by any of the observations made by this Court in this order.



C.R.P.(MD)No.2129 of 2019

WEB COPY

4. The Registry shall return the impugned order to the learned counsel for the revision petitioner to enable him to file the appeal, after getting appropriate acknowledgment.

5. With the above observation, the Civil Revision Petition is dismissed. There shall be no order as to cost. Consequently, connected Miscellaneous Petition is closed.

12.12.2023

Internet : Yes

Index: Yes/No

Neutral Citation: Yes/No

Ls

To

1. The II Additional Sub Judge,
Nagercoil.

2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.R.P.(MD)No.2129 of 2019

P.B.BALAJI.J.,

Ls

C.R.P.(MD)No.2129 of 2019

12.12.2023